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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/708,658	03/17/2004	Rodrick A. HERDMAN	EZL-001M	2657

26868 7590 09/21/2006

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EXAMINER

GALL, LLOYD A

ART UNIT	PAPER NUMBER
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3676

DATE MAILED: 09/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/708,658

Applicant(s)

HERDMAN, RODRICK A.

Examiner

Lloyd A. Gall

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-15, 22-25, 27, 28 and 44-67 is/are pending in the application.
- 4a) Of the above claim(s) 24, 25, 27 and 28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-15, 22, 23 and 44-67 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 March 2004 and 09 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>4/21/05 and 1/5/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The disclosure is objected to because of the following informalities: In paragraph [0130], line 5, the parentheses are not closed. In paragraph [0131], line 17, it appears that --of-- should follow "42". In the replacement paragraph [0228], line 15 filed on May 4, 2005, "threaded nut 220 that." is grammatically incorrect.

Appropriate correction is required.

Claims 7, 9, 15, 53, 54, 57, 58, 59, 66 and 67 are objected to because of the following informalities: In claim 7, line 5, --user-- should be inserted after the first occurrence of "of". In claim 7, line 7, the first occurrence of "member" should be replaced with --members--. In claim 9, line 2, "its" is grammatically incorrect. The subject matter in claim 9, lines 1-2 is already present in claim 6, from which claim 9 now ultimately depends. In claim 15, lines 1 and 2, --user-- should be inserted before both occurrences of "key". In claim 53, lines 2 and 3, "shim" should be replaced with --shims--. In claim 53, line 2 should be clarified such that plural shims are not claimed between each tumbler pin and change member. In claim 53, line 2, there is no antecedent basis for "tumbler pin". In claim 53, line 2, both occurrences of "member" should be replaced with --ball--. All of the objections in claim 53 are also applicable in claim 66. In claim 54, line 2, "pins" should be replaced with --shims--. In claim 54, line 3, "pin" should be replaced with --shim--. In claim 57, line 4, there is no antecedent basis for "the opening". In claim 58, line 3, it is not clear what is meant by "the lock configuration is cancelled". In claim 59, line 2, there is no antecedent basis for "the first rotated position". In claim 59, line 5, there is no antecedent basis for "the second

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rotated position". In claim 67, line 2, "pins" should read --shims--. In claim 67, line 3, "pin" should read --shim--. Appropriate correction is required.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-4, 6-15, 22, 23 and 44-67 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

All claims are regarded as indefinite as to whether the claiming of the keys throughout the claims are positively claiming the keys, or only inferentially claiming the keys.

Further, it is not clear as to whether the change tool is being positively claimed, or only inferentially claimed throughout the claims. In claim 51 and claim 64, it is not clear in what sense the lock can not be operated when the change tool is within the change tool slot, as seen in Fig. 11B.

Claims 1-4, 6-15, 22, 23 and 44-67 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-20 of copending Application No. 11/178,627. Although the conflicting claims are not identical, they are not patentably distinct from each other because they substantially claim the same subject matter.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 1-4, 6-15, 22, 23 and 44-67 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-20

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of copending Application No. 11/192,755. Although the conflicting claims are not identical, they are not patentably distinct from each other because they substantially claim the same subject matter.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical; but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Applicant should also note that further prior art rejections may follow in the future, pending the clarification of whether the keys are being positively claimed, or only inferentially claimed, as set forth in the above rejections under 35 USC 112, second paragraph.

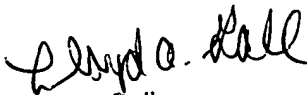
Further, with respect to applicant's discussion of the Declaration of applicant as set forth on page 11 of the response of July 6, 2006, it is noted that the examiner is questioning whether the standard cylinder lock referred to by applicant is a prior art publication available for the examiner's consideration, or not.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lloyd A. Gall whose telephone number is 571-272-7056. The examiner can normally be reached on Monday-Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LG LG
September 15, 2006


Lloyd A. Gall
Primary Examiner